



Rockville, MD 20857

HIV/AIDS Bureau

**Policy Notice 10-01 – 2009 Reauthorized
Unobligated Balances Provisions**

MAR 30 2010

Dear Part A and Part B Ryan White HIV/AIDS Program Grantees:

As a result of revised requirements contained in Title XXVI of the Public Health Service (PHS) Act, as amended by Public Law 111-87, the HIV/AIDS Bureau (HAB) has developed the enclosed Policy Notice 10-01, regarding 2009 Reauthorized Unobligated Balances Provisions of grant funds.

Revised language in sections 2603(c) and 2622 of the PHS Act, **Timeframe for Obligation and Expenditure of Grant Funds**, delineates specific requirements with regard to the reporting and use of unobligated balances (UOB) of grant funds, effective September 30, 2009. Accordingly, these requirements apply to fiscal year (FY) 2008 UOB reported in grantees' FY 2008 final Financial Status Reports. Any applicable FY 2008 UOB penalties must be applied in the next grant year, i.e. in FY 2010. The attached document has been developed by HAB in order to clarify the revised requirements, and explain potential penalties imposed on grantees who do not comply with the requirements.

Because of the impact of these revised requirements, HAB will provide, in addition to this mailing, technical assistance to grantees regarding unobligated balances of grant funds.

If you have any questions regarding the content of this HAB Policy Notice, please contact your project officer. Thank you for your attention to this important matter.

Deborah Parham Hopson, PhD, RN, FAAN
Assistant Surgeon General
Associate Administrator

Enclosures

Policy Notice 10-01: The Unobligated Balances Provisions

The purpose of all Ryan White HIV/AIDS Program funds is to ensure that eligible HIV-infected persons and families gain and/or maintain access to medical care. In accordance with the provisions of Title XXVI of the Public Health Service (PHS) Act, as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009 (Ryan White HIV/AIDS Program), the following policy establishes guidelines for the unobligated balances (UOB) provision affecting grantees under Parts A and B, including eligible metropolitan areas (EMAs), transitional grant areas (TGAs), States and United States (U.S.) Territories.

Part A

Formula Funds

UOB Penalties

If unobligated balances of formula award exceed 5 percent, 3 penalties are imposed (see attachments):

1. future year award is offset by the amount of the UOB less the amount of approved carry over;
2. future year award is reduced by amount of UOB less the amount of approved carry over; and
3. the grantee is not eligible for a future year supplemental award.

If the grantee reports unobligated formula funds of 5 percent or less, no penalties are imposed.

A waiver to request carryover of unobligated formula funds is necessary regardless of the amount of remaining funds. A carryover waiver application must be submitted to HRSA/HAB 60 days before the end of the grant year stating the purpose for which such funds will be expended during the carryover year. If a waiver for carryover is approved, and, if at the end of the carryover year, funds remain unobligated, the grantee will be able to expend the approved UOB in accordance with the approved carryover waiver application.

The exact amount of unobligated funds will be reported on a Financial Status Report (FSR) or after April 1, 2010, on a Final Financial Report (FFR) submitted 90 days after the end of the grant year. **NO EXTENSIONS WILL BE GRANTED FOR LATE SUBMISSION OF THE FINAL FSR or FFR.** For a grantee having greater than 5 percent in unobligated formula funds at the end of its grant year, whether it receives a waiver or not, there are penalties and adjustments that will affect future awards: the total amount of UOB less the amount of approved carryover will be offset in a future year award; that amount will be made available for reallocation through supplemental awards. Additionally, that same future year award will be additionally reduced by the total amount of UOB less the amount of approved carryover; the reduced amounts also will be

made available for reallocation through supplemental awards. Finally, the grantee is not eligible for a future year supplemental award.

Note that the carryover formula funds will be used in the year prior to the offset, reduction, and ineligibility, as those penalties cannot be taken until after the final FSR or FFR is submitted.

Supplemental Funds

Under the amended Ryan White HIV/AIDS Program legislation, the Secretary has new flexibility with regard to supplemental funds. Grantees reporting unobligated supplemental funds on their FSRs or FFRs may request that those funds be used in a future year; the same amount of the UOB supplemental funds will be reduced from that same future year award. The grant funds involved in such a reduction will be made available for reallocation through supplemental awards. UOB supplemental funds do not make a grantee ineligible for a future year supplemental award.

Note that utilization of unused supplemental funds and the corresponding reduction will take place in the same grant year, as such actions are based on the final FSR or FFR submitted 90 days after the end of the grant year. **NO EXTENSIONS WILL BE GRANTED FOR LATE SUBMISSION OF THE FINAL FSR or FFR.**

Minority AIDS Initiative and Supplemental Funds

The unobligated balance provision does not apply to funds granted through the Minority AIDS Initiative (MAI) under section 2693 of the PHS Act. EMAs and TGAs will track MAI funds separately and may request carryover of MAI funds to address the disproportionate impact of HIV/AIDS on racial and ethnic minorities.

Part B

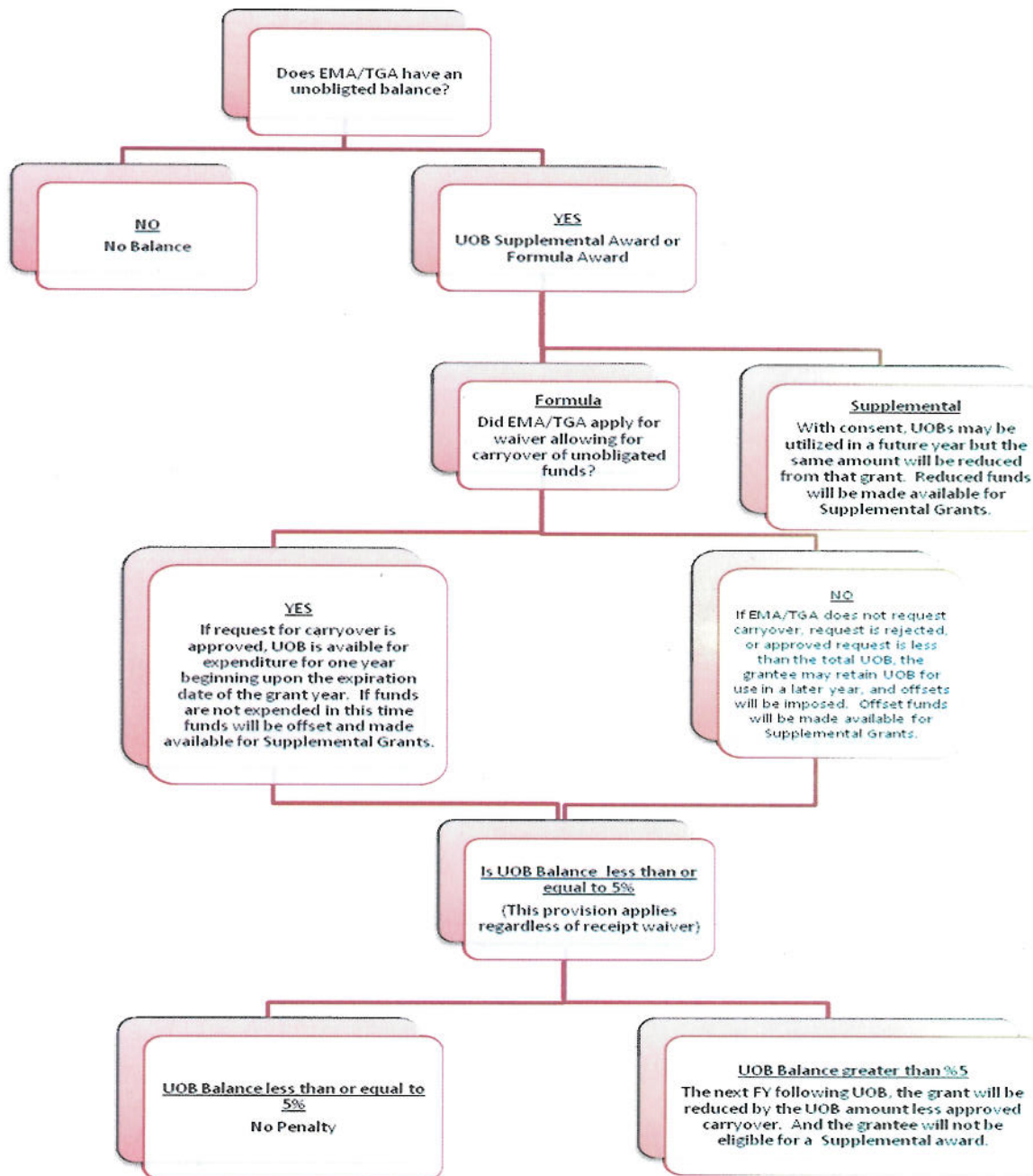
The UOB Policy for Part B Formula, Supplemental and MAI funds is identical to the policy for Part A (see attachments). In addition, the following policy applies:

Drug Rebates

The unobligated balance provision does not apply to funds from drug rebates under Part B. By law, drug rebate amounts are not considered part of the grant award and are not subject to the unobligated balances provision. **Rebate funds should never be recorded as UOB on any FSR or FFR.**

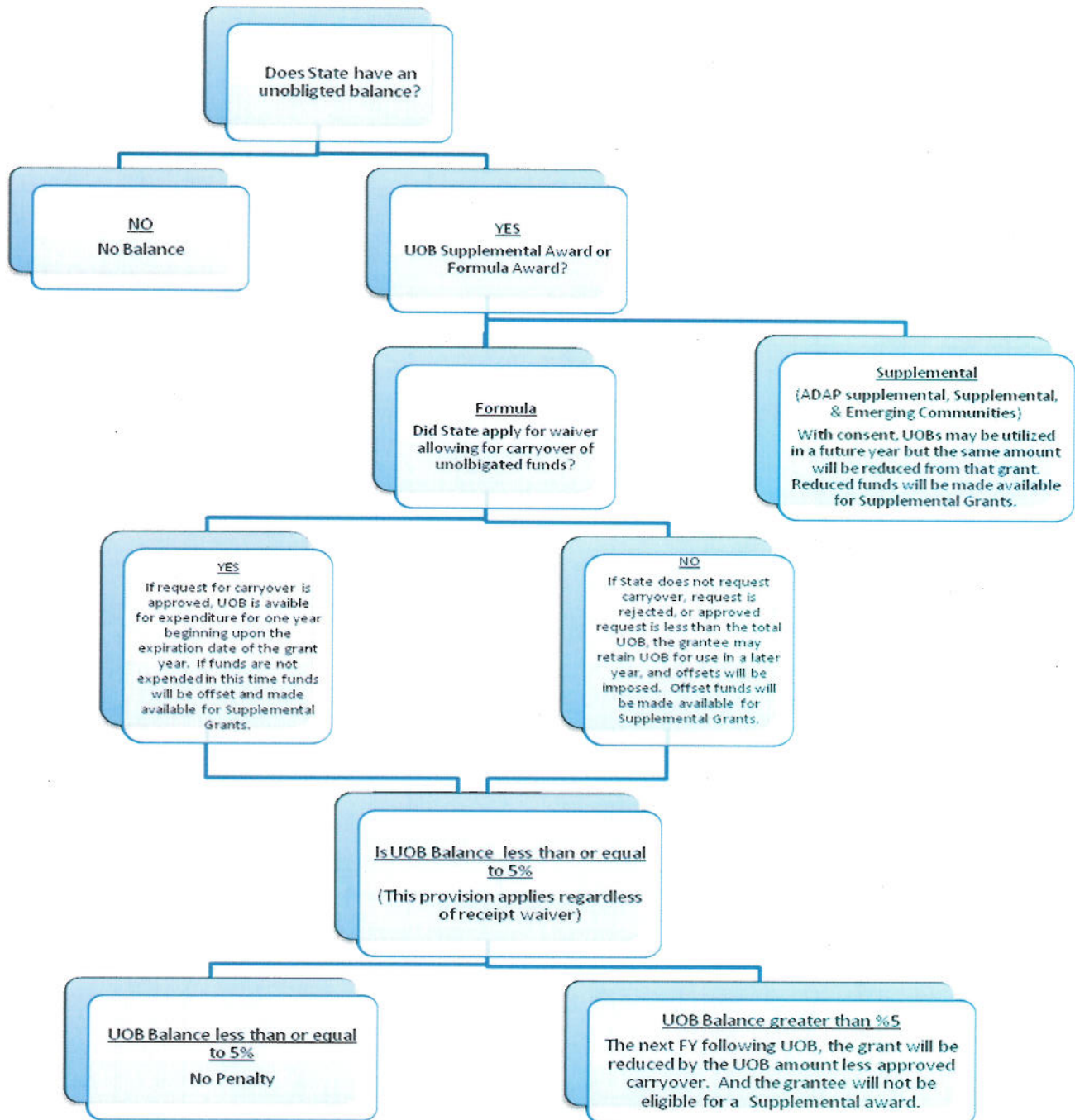
Part A Grantees

Attachment #1



Part B Grantees

Attachment # 1



Attachment #3

Examples

Examples of how the new language will apply in specific instances (note that the examples are based on the Part A funding cycle):

Example 1:

- Grantee X is awarded \$1.0 million for grant period March 1, 2008 – February 28, 2009.
- Grantee requests a carry over of \$50,000 (FY 2008 into FY 2009), which is approved. The \$50,000 must be expended by February 28, 2010.
- Grantee submits a final FSR 90 days after the end of the grant year that indicates a UOB for formula funds in the amount of \$50,000, which is 5 percent of the grant.
- Penalties imposed:
 - None. The grantee is not subject to any penalties because the amount of formula UOB is 5 percent or less of the grant, regardless of request and approval for carry over.

Example 2:

- Grantee X is awarded \$1.0 million for grant period March 1, 2008 – February 28, 2009.
- Grantee requests a carry over of \$80,000 (FY 2008 into FY 2009), which is approved. The \$80,000 must be expended by February 28, 2010.
- Grantee submits a final FSR 90 days after the end of the grant year that indicates a UOB for formula funds in the amount of \$80,000, which is greater than 5 percent of the grant.
- Penalties imposed:
 - Future year award (March 1, 2010 – February 28, 2011) will be offset by the amount of the UOB less the amount of approved carryover: \$0;
 - Future year award (March 1, 2010 – February 28, 2011) will be reduced by the amount of UOB less the amount of approved carryover: \$0;
 - Future year (March 1, 2010 – February 28, 2011) ineligible for supplemental award.

Example 3:

- Grantee X is awarded \$1.0 million for grant period March 1, 2008 – February 28, 2009.
- Grantee requests a carry over of \$50,000 of the available \$80,000 in unobligated funds (FY 2008 in to FY 2009), which is approved. The \$50,000 must be expended by February 28, 2010.

- Grantee submits a final FSR 90 days after the end of the grant year that indicates a UOB for formula funds in the amount of \$80,000 which is greater than 5 percent of the grant.
- Penalties imposed:
 - Future year award (March 1, 2010 – February 28, 2011) is offset by the amount of UOB less the amount of approved carryover: \$30,000;
 - Future year award (March 1, 2010 – February 28, 2011) is reduced by the amount of UOB less the amount of approved carryover: \$30,000;
 - Future year (March 1, 2010 – February 28, 2011) ineligible for supplemental award.

Supplemental Funds

- Grantee X is awarded \$1.0 million for grant period March 1, 2008 – February 28, 2009.
- Grantee reports UOB supplemental funds on a final FSR 90 days after the end of the grant year; with consent, the grantee may retain those funds for use in the next following grant year, March 1, 2010 – February 28, 2011.
- That same future grant year's supplemental award (March 1, 2010 – February 28, 2011) will be reduced by the amount of the UOB supplemental funds.